

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION**

STATE OF MISSOURI ex rel. ERIC S.  
SCHMITT, Attorney General,

STATE OF LOUISIANA ex rel. JEFFREY  
M. LANDRY, Attorney General,

DR. JAYANTA BHATTACHARYA,

JILL HINES,

JIM HOFT,

DR. AARON KHERIATY, and

DR. MARTIN KULLDORFF,

*Plaintiffs,*

v.

JOSEPH R. BIDEN, JR., in his official  
capacity as President of the United States;

KARINE JEAN-PIERRE, in her official  
capacity as White House Press Secretary;

VIVEK H. MURTHY, in his official  
capacity of Surgeon General of the United  
States;

XAVIER BECERRA, in his official  
capacity as Secretary of the Department of  
Health and Human Services;

DEPARTMENT OF HEALTH AND  
HUMAN SERVICES;

DR. ANTHONY FAUCI, in his official  
capacity as Director of the National Institute  
of Allergy and Infectious Diseases and as  
Chief Medical Advisor to the President;

No. 3:22-cv-01213-TAD-KDM



NATIONAL INSTITUTE OF ALLERGY  
AND INFECTIOUS DISEASES;

CENTERS FOR DISEASE CONTROL  
AND PREVENTION;

CAROL Y. CRAWFORD, in her official  
capacity as Chief of the Digital Media  
Branch of the Division of Public Affairs  
within the Centers for Disease Control and  
Prevention;

UNITED STATES CENSUS BUREAU,  
a.k.a. BUREAU OF THE CENSUS;

JENNIFER SHOPKORN, in her official  
capacity as Senior Advisor for  
Communications with the U.S. Census  
Bureau;

DEPARTMENT OF COMMERCE;

ALEJANDRO MAYORKAS, in his official  
capacity as Secretary of the Department of  
Homeland Security;

ROBERT SILVERS, in his official capacity  
as Under Secretary of the Office of  
Strategy, Policy, and Plans, within DHS;

SAMANTHA VINOGRAD, in her official  
capacity as Senior Counselor for National  
Security in the Office of the Secretary for  
DHS;

DEPARTMENT OF HOMELAND  
SECURITY;

JEN EASTERLY, in her official capacity as  
Director of the Cybersecurity and  
Infrastructure Security Agency;

CYBERSECURITY AND  
INFRASTRUCTURE SECURITY  
AGENCY;

GINA McCARTHY, in her official capacity as White House National Climate Advisor,

NINA JANKOWICZ, in her official capacity as director of the so-called "Disinformation Governance Board" within the Department of Homeland Security,

ANDREW SLAVITT, in his official capacity as White House Senior COVID-10 Advisor,

ROB FLAHERTY, in his official capacity as Deputy Assistant to the President and Director of Digital Strategy at the White House,

COURTNEY ROWE, in her official capacity as White House Covid-19 Director of Strategic Communications and Engagement,

CLARKE HUMPHREY, in her official capacity as White House Digital Director for the Covid-19 Response Team,

BENJAMIN WAKANA, in his official capacity as the Deputy Director of Strategic Communications and Engagement at the White House COVID-19 Response Team,

SUBHAN CHEEMA, in his official capacity as Deputy Director for Strategic Communications and External Engagement for the White House Covid-19 Response Team,

DORI SALCIDO, in her official capacity as White House Covid-19 Director of Strategic Communications and Engagement,

TIMOTHY W. MANNING, in his official capacity as White House Covid-19 Supply Coordinator,

DANA REMUS, in her official capacity as

Counsel to the President,

AISHA SHAH, in her official capacity as  
White House Partnerships Manager,

LAURA ROSENBERGER, in her official  
capacity as Special Assistant to the  
President,

MINA HSIANG, in her official capacity as  
Administrator of the U.S. Digital Service  
within the Office of Management and  
Budget in the Executive Office of the  
President,

U.S. DEPARTMENT OF JUSTICE,

FEDERAL BUREAU OF  
INVESTIGATION,

LAURA DEHMLow, in her official  
capacity as Section Chief for the FBI's  
Foreign Influence Task Force,

ELVIS M. CHAN, in his official capacity  
as Supervisory Special Agent of Squad CY-  
1 in the San Francisco Division of the  
Federal Bureau of Investigation,

JAY DEMPSEY, in his official capacity as  
Social Media Team Lead, Digital Media  
Branch, Division of Public Affairs at the  
CDC,

KATE GALATAS, in her official capacity  
as Deputy Communications Director at the  
CDC,

ERIC WALDO, in his official capacity as  
Chief Engagement Officer for the Surgeon  
General,

YOLANDA BYRD, in her official capacity  
as a member of the Digital Engagement  
Team at HHS,



CHRISTY CHOI, in her official capacity as  
Deputy Director, Office of  
Communications, HRSA within HHS,

TERICKA LAMBERT, in her official  
capacity as Director of Digital Engagement  
at HHS and Deputy Director of the Office  
of Digital Strategy at the White House,

JOSHUA PECK, in his official capacity as  
Deputy Assistant Secretary for Public  
Engagement at HHS,

JANELL MUHAMMED, in her official  
capacity as Deputy Digital Director at HHS,

MATTHEW MASTERSON, in his official  
capacity as Senior Cybersecurity Advisory  
within CISA in the Department of  
Homeland Security,

LAUREN PROTENTIS, in her official  
capacity as an official of CISA,

GEOFFREY HALE, in his official capacity  
as an official of CISA,

ALLISON SNELL, in her official capacity  
as an official of CISA,

KIM WYMAN, in her official capacity as  
CISA's Senior Election Security Lead,

BRIAN SCULLY, in his official capacity as  
an official of DHS and CISA,

ZACHARY HENRY SCHWARTZ, in his  
official capacity as Division Chief for the  
Communications Directorate at the U.S.  
Census Bureau,

LORENA MOLINA-IRIZARRY, in her  
official capacity as an official of the Census  
Bureau,

KRISTIN GALEMORE, in her official

capacity as Deputy Director of the Office of Faith Based and Neighborhood Partnerships at the Census Bureau,

U.S. FOOD AND DRUG  
ADMINISTRATION,

ERICA JEFFERSON, in her official capacity as Associate Commissioner for External Affairs within the Office of the Commissioner at the U.S. Food and Drug Administration,

MICHAEL MURRAY, in his official capacity as Acquisition Strategy Program Manager for the Office of Health Communications and Education at the FDA,

BRAD KIMBERLY, in his official capacity as Director of Social Media at the FDA,

U.S. DEPARTMENT OF STATE,

LEAH BRAY, in her official capacity as Acting Coordinator of the State Department's Global Engagement Center,

SAMARUDDIN K. STEWART, in his official capacity as Senior Technical Advisor and/or Senior Advisor for the Global Engagement Center of the State Department,

DANIEL KIMMAGE, in his official capacity as Acting Coordinator for the Global Engagement Center at the State Department,

ALEXIS FRISBIE, in her official capacity as a member of the Technology Engagement Team at the Global Engagement Center at the State Department,

U.S. DEPARTMENT OF TREASURY,

WALLY ADEYEMO, in his official capacity as Deputy Secretary of the Treasury,

U.S. ELECTION ASSISTANCE COMMISSION,

MARK A. ROBBINS, in his official capacity as Interim Executive Director of the EAC, and

KRISTEN MUTHIG, in her official capacity as Director of Communications for the EAC,

*Defendants.*

## **SECOND AMENDED COMPLAINT**

### **NATURE OF THE ACTION**

1. In 1783, George Washington warned that if “the Freedom of Speech may be taken away,” then “dumb and silent we may be led, like sheep, to the Slaughter.” George Washington, *Address to the Officers of the Army* (March 15, 1783). The freedom of speech in the United States now faces one of its greatest assaults by federal government officials in the Nation’s history.

2. A private entity violates the First Amendment “if the government coerces or induces it to take action the government itself would not be permitted to do, such as censor expression of a lawful viewpoint.” *Biden v. Knight First Amendment Institute at Columbia Univ.*, 141 S. Ct. 1220, 1226 (2021) (Thomas, J., concurring). “The government cannot accomplish through threats of adverse government action what the Constitution prohibits it from doing directly.” *Id.*

3. That is exactly what has occurred over the past several years, beginning with express and implied threats from government officials and culminating in the Biden Administration’s open and explicit censorship programs. Having threatened and cajoled social-media platforms for years to censor viewpoints and speakers disfavored by the Left, senior government officials in the

appears that Meta/Facebook is policing *private* messages sent on Facebook to censor and suppress any communications that might be critical of the FBI.

395. Recent, heavily documented reports indicate that both the State Department and CISA have teamed up with a consortium of four private groups in a close collaboration to achieve social-media censorship of election-related speech beginning in 2020, and that this collaboration is continuing to this day.

396. Pursuant to third-party subpoena, Twitter has identified personnel associated with the State Department's Global Engagement Center, including Alexis Frisbie and Daniel Kimmage, as likely involved in communications with Twitter about censorship and/or content modulation on issues such as election integrity, vaccine/COVID misinformation, and related subjects.

397. The State Department reports that "[i]n December 2019, GEC/TET [*i.e.*, State's Global Engagement Center's Technology Engagement Team] established a Silicon Valley location to facilitate public-private coordination and broker constructive engagements between the U.S. government and the tech sector, academia, and research. The goal is to increase collaboration that results in identifying, exposing, and defending against foreign adversarial propaganda and disinformation." On information and belief, "collaboration that results in ... defending against ... disinformation," *id.*, includes censorship of social-media speech.

398. The Global Engagement Center publishes "Counter Disinformation Dispatches," of which the State Department states: "The Global Engagement Center's Counter Disinformation Dispatches summarize lessons learned about disinformation and how to counter it based on the experiences of frontline counter-disinformation practitioners, for the benefit of those newly engaged in this issue."



399. The Global Engagement Center provides, as an online “counter-disinfo resource,” as link to CISA’s website, stating: “An agency of the Department of Homeland Security, the Cybersecurity and Infrastructure Security Agency ‘is responsible for protecting the [United States’] critical infrastructure from physical and cyber threats,’ including election security.”

400. The State Department has inserted itself in efforts to combat so-called Covid-19 “disinformation.” State provides an online briefing dated January 21, 2022, entitled “COVID-19 Fact Checking: What Journalists Need to Know,” which “provides information about fact-checking resources available to journalists to counter COVID-19 and vaccine misinformation, and an overview of counter-misinformation efforts around the world.”

401. According to public reports, “[a] consortium of four private groups worked with the departments of Homeland Security (DHS) and State to censor massive numbers of social media posts they considered misinformation during the 2020 election, and its members then got rewarded with millions of federal dollars from the Biden administration afterwards, according to interviews and documents obtained by [reporters].” *Outsourced censorship: Feds used private entity to target millions of social posts in 2020*, JUST THE NEWS (Sept. 30, 2022), at <https://justthenews.com/government/federal-agencies/biden-administration-rewarded-private-entities-got-2020-election>.

402. On information and belief, the purpose and effect of this consortium of private non-profit groups is to allow federal officials at CISA and State to evade First Amendment and other legal restrictions while still operating unlawfully to censor the private election-related speech on Americans on social-media. Its censorship operations continue to this day. *See id.*

403. This consortium of private entities, closely collaborating with CISA and the State Department, calls itself “The Election Integrity Partnership.” This collaborative federal-private

censorship project “is back in action again for the 2022 midterm elections, raising concerns among civil libertarians that a chilling new form of public-private partnership to evade the First Amendment's prohibition of government censorship may be expanding.” *Id.*

404. “The consortium is comprised of four member organizations: Stanford Internet Observatory (SIO), the University of Washington's Center for an Informed Public, the Atlantic Council's Digital Forensic Research Lab, and social media analytics firm Graphika.” *Id.* The consortium “set up a concierge-like service in 2020 that allowed federal agencies like Homeland's Cybersecurity Infrastructure Security Agency (CISA) and State's Global Engagement Center to file ‘tickets’ requesting that online story links and social media posts be censored or flagged by Big Tech.” *Id.*

405. “Three liberal groups — the Democratic National Committee, Common Cause and the NAACP — were also empowered like the federal agencies to file tickets seeking censorship of content. A Homeland [*i.e.* DHS]-funded collaboration, the Elections Infrastructure Information Sharing and Analysis Center, also had access.” *Id.*

406. “In its own after-action report on the 2020 election, the consortium boasted it flagged more than 4,800 URLs — shared nearly 22 million times on Twitter alone — for social media platforms. Their staff worked 12-20 hour shifts from September through mid-November 2020, with ‘monitoring intensifying significantly’ the week before and after Election Day.” *Id.* (alterations omitted).

407. Backed by the authority of the federal government, including DHS, CISA, the State Department, and State's Global Engagement Center, the consortium successfully sought and procured extensive censorship of core political speech by private citizens: “The tickets sought

removal, throttling and labeling of content that raised questions about mail-in ballot integrity ... and other election integrity issues of concern to conservatives.” *Id.*

408. “The consortium achieved a success rate in 2020 that would be enviable for baseball batters: Platforms took action on 35% of flagged URLs, with 21% labeled, 13% removed and 1% soft-blocked, meaning users had to reject a warning to see them.” *Id.*

409. The consortium’s “[p]articipants were acutely aware that federal agencies’ role in the effort” raised First Amendment concerns. “For instance, SIO’s Renee DiResta said in a CISA Cybersecurity Summit video in 2021 that the operation faced ‘unclear legal authorities’ and ‘very real First Amendment questions.’” *Id.*

410. One free-speech advocate described the consortium as “the largest federally-sanctioned censorship operation he had ever seen, a precursor to the now-scrapped Disinformation Governance Board and one that is likely to grow in future elections.” *Id.* “‘If you trace the chronology, you find that there was actually 18 months’ worth of institutional work to create this very apparatus that we now know played a significant role in the censorship of millions of posts for the 2020 election and has ambitious sights for 2022 and 2024,’ he said.” *Id.*

411. A member of Congress “called the revelations ‘stunning’ and said the 2020 operation amounted to the federal government sanctioning and outsourcing censorship.” *Id.*

412. “It wasn’t just blogs and individual social media users whose content was targeted for removal and throttling as ‘repeat spreaders’ of misinformation. News and opinion organizations, including the New York Post, Fox News, Just the News and SeanHannity.com were also targeted.” *Id.*

413. “The partnership’s members published the 292-page public report in March 2021, though the most recent version is dated June 15, 2021. The launch webinar featured former CISA



Director Christopher Krebs, ‘who led the effort to secure electoral infrastructure and the response to mis- and disinformation during the election period.’” *Id.*

414. “‘I think we were pretty effective in getting platforms to act on things they haven’t acted on before,’ both by *pressuring them to adopt specific censorship policies* and then *reporting violations*, SIO founder and former Facebook Chief Security Officer Alex Stamos told the launch webinar.” *Id.* (emphasis added). “‘Platform interventions’ [*i.e.*, censorship of specific posts or content] in response to ‘delegitimization of election results,’ for example, went from uniformly ‘non-comprehensive’ in August 2020 to ‘comprehensive’ by Election Day, the report says.” *Id.*

415. “SIO officially launched the partnership 100 days before the election, ‘in consultation with CISA and other stakeholders,’ the partnership report says. It attributes the idea to SIO-funded interns at CISA, noting that censorship by that agency and domestic social media monitoring by intelligence agencies would likely be illegal.” *Id.* (citing Center for an Informed Public, Digital Forensic Research Lab, Graphika, & Stanford Internet Observatory (2021), *The Long Fuse: Misinformation and the 2020 Election*. Stanford Digital Repository: Election Integrity Partnership. v1.3.0, at <https://purl.stanford.edu/tr171zs0069> (“EIP Report”)).

416. The EIP Report’s executive summary states: “Increasingly pervasive mis- and disinformation, both foreign and domestic, creates an urgent need for collaboration across government, civil society, media, and social media platforms.” *Id.*

417. The consortium was openly biased based on political viewpoint, calling President Trump “the social media Death Star.” “During the launch webinar, the Atlantic Council’s Emerson Brooking said they wanted to stop the ‘amplification and legitimation’ of ‘far-right influencers [who] would be doing all they could to try to catch the eye of a Fox News producer,’ making it likely that President Trump, ‘the social media Death Star,’ would see their content.” *Id.*



418. The consortium's work included the direct involvement of government officials in censorship decisions. "Government entities were involved in real-time chats with the partnership and social media platforms over specific content under review." *Id.* For example, "[a] chat screenshot in the report shows an unidentified government partner rejecting the Sharpiegate claim that 'sharpies aren't read at all' by ballot-counting machines, and a platform provider responding that it was now reviewing those claims." *Id.*

419. Notably, consistent with its carrot-stick approach to private entities on social-media censorship, the incoming Biden Administration—including the State Department—richly rewarded the private-sector partners in this consortium of censorship, lavishing federal largesse upon them. "The [consortium's] partners all received federal grants from the Biden administration in the next two years." *Id.* "The National Science Foundation awarded the Stanford and UW projects \$3 million in August 2021 'to study ways to apply collaborative, rapid-response research to mitigate online disinformation.'" *Id.* "UW's press release about the award noted their earlier work on the partnership and praise for the report from ex-CISA director Krebs, who called it 'the seminal report on what happened in 2020, not just the election but also through January 6.'" *Id.* "Graphika, also known as Octant Data, received its first listed federal grant several weeks after the 2020 election: nearly \$3 million from the Department of Defense for unspecified 'research on cross-platform detection to counter malign influence.' Nearly \$2 million more followed in fall 2021 for 'research on co-citation network mapping,' which tracks sources that are cited together." *Id.* "The Atlantic Council ... has received \$4.7 million in grants since 2021, all but one from the State Department. That far exceeds the think tank's federal haul in previous years, which hadn't approached \$1 million in a single year since 2011." *Id.*

420. “UW’s project, SIO and Graphika also collaborated on the Virality Project, which tracks and analyzes purported ‘COVID-19 vaccine misinformation and social media narratives related to vaccine hesitancy.’” *Id.*

421. The collaboration with CISA on the Election Integrity Project is not the State Department’s only involvement in federal social-media censorship activities. Documents produced so far in discovery from Defendants provide glimpses into the State Department’s involvement on many fronts.

422. For example, on February 4, 2020, Samaruddin K. Stewart, then a “Senior Advisor for the Global Engagement Center of the State Department” reached out to LinkedIn and stated that he was “tasked with building relationships with technology companies ... in [Silicon Valley] with interests in countering disinformation,” and asked for a meeting. As the email indicates, Stewart intended to reach out to other social-media platforms as well.

423. On March 9, 2020, Stewart reached out to LinkedIn again, referring back to their earlier oral meeting, and stated, “I’ll send information [to LinkedIn representatives] about gaining access to Disinfo Cloud – which is a GEC [*i.e.* State Department’s Global Engagement Center] funded platform that offers stakeholders an opportunity to discovery companies, technology, and tools that can assist with identifying, understanding, and addressing disinformation.” On information and belief, “addressing disinformation” includes the censorship and suppression of private speech.

424. On July 19, 2021, Stewart organized another meeting with LinkedIn and several State Department colleagues on the topic “countering disinformation.” On information and belief, Stewart engaged in similar meetings and coordination efforts with other social-media platforms as well.

425. The State Department's Global Engagement Center has worked directly with CISA and FBI to procure the censorship of specific content on social media. For example, on March 25, 2020, Alex Dempsey of the State Department forwarded to an FBI agent a report about a video on social media making ostensibly false allegations about a State Department officer. Brian Scully of CISA forwarded the report to Facebook personnel, stating "see the below reporting from our State Department Global Engagement Center colleagues about disinformation ... targeting a Diplomatic Security Officer." Facebook responded, "Have flagged for our internal teams. As always, we really appreciate the outreach and sharing of this information." Scully also forwarded the State Department's report to Twitter and Google/YouTube. In flagging the content for Google, Scully commented, "It does appear the FBI has been notified, so you may have already heard from them."

426. The State Department's Global Engagement Center, including Stewart and other State employees, were also involved in organizing a "misinformation and disinformation" workshop for African governments in May 2021. Lauren Protentis of CISA and Joe Parentis, Deputy Coordinator for the State Department's Global Engagement Center, were speakers at the event. The event was moderated by Elizabeth Vish of the State Department's Office of Cyber Coordinator. The agenda for the event included a presentation by Facebook on "How does Facebook work with governments to address misinformation and disinformation?" This included "Fact checking techniques, how to identify disinformation and misinformation," and "Proven techniques to take down these articles. The effectiveness of fake news checkers," "Steps for stopping already-circulating misinformation," and "International takedown requests." On information and belief, these statements reflected the collective experience of CISA and the State Department in working to achieve social-media censorship of domestic speech in America.